

ARKANSAS SUPREME COURT

No. CR 05-326

NOT DESIGNATED FOR PUBLICATION

GEORGE ARTHUR BUNN
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 16, 2006

PRO SE MOTION TO DUPLICATE BRIEF AT
PUBLIC EXPENSE [CIRCUIT COURT OF
WASHINGTON COUNTY, CR 2002-1064, HON.
KIM SMITH, JUDGE]

MOTION DENIED

PER CURIAM

George Arthur Bunn was found guilty by a jury of two counts of being a felon in possession of a firearm, and sentenced as a habitual offender to 240 months' imprisonment. The sentences on those counts were to run concurrently to one another, but consecutively to sentences Mr. Bunn was serving on other charges. The Arkansas Court of Appeals affirmed. *Bunn v. State*, CACR 03-280 (Ark. App. March 3, 2004). Bunn then filed a *pro se* motion to file a belated *pro se* petition for review. We denied the motion. *Bunn v. State*, CR 04-654 (Ark. September 30, 2004) (*per curiam*).

Subsequently, Bunn filed a timely *pro se* petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1, which was denied following a hearing. Appellant Bunn has lodged an appeal of that order in this court, and the parties have filed their briefs. We ordered rebriefing as appellant's brief was clearly deficient. *Bunn v. State*, CR 05-326 (Ark. February 2, 2006) (*per curiam*). Appellant has now tendered his brief, but has tendered only two copies rather than the seventeen copies required by Ark. Sup. Ct. R. 4-3(d).

Now before us is appellant's motion for duplication of the brief at public expense. This motion is grounded solely in appellant's contention that he is indigent and unable to pay the cost of duplicating the brief.

A Rule 37.1 proceeding is a civil proceeding, separate and distinct from the underlying criminal conviction. *Arkansas Public Defender Commission v. Greene County Circuit Court*, 343

Ark. 49, 32 S.W.3d 470 (2000); *Dyer v. State*, 258 Ark. 494, 527 S.W.2d 622 (1975). There is no right under our rules or any constitutional provision to have a brief in a postconviction or other civil case duplicated at public expense. *See Maxie v. Gaines*, 317 Ark. 229, 876 S.W.2d 572 (1994) (*per curiam*). Nevertheless, in those cases where the indigent appellant makes a substantial showing in a motion to have the appellant's brief duplicated that the appeal has merit and that he or she cannot provide the court with a sufficient number of copies of the brief, we will request the Attorney General to duplicate the brief.

In the motion at bar appellant has failed to offer any showing of substantial merit to the appeal. Accordingly, he has not shown that the brief should be duplicated at public expense. Appellant is therefore obligated to submit an additional fifteen copies of appellant's brief within fifteen days of the date of this opinion to make up the total of seventeen copies of the brief required by Ark. Sup. Ct. R. 4-3(d).

Motion denied.